

## **§ 927.70**

from entering commercial channels of trade contrary to the provisions of this subpart.

(b) The Fresh Pear Committee or the Processed Pear Committee may prescribe rules and regulations, to become effective upon the approval of the Secretary, whereby quantities of pears or types of pear shipments may be exempted from any or all provisions of this subpart.

### **MISCELLANEOUS PROVISIONS**

#### **§ 927.70 Reports.**

(a) Upon the request of the Fresh Pear Committee or the Processed Pear Committee, and subject to the approval of the Secretary, each handler shall furnish to the aforesaid committee, respectively, in such manner and at such times as it prescribes, such information as will enable it to perform its duties under this subpart.

(b) All such reports shall be held under appropriate protective classification and custody by the Fresh Pear Committee or the Processed Pear Committee, or duly appointed employees thereof, so that the information contained therein which may adversely affect the competitive position of any handler in relation to other handlers will not be disclosed. Compilations of general reports from data submitted by handlers are authorized subject to the prohibition of disclosure of individual handler's identities or operations.

(c) Each handler shall maintain for at least two succeeding years such records of the pears received and of pears disposed of, by such handler as may be necessary to verify reports pursuant to this section.

#### **§ 927.71 Compliance.**

Except as provided in § 927.65, no handler shall ship any pears contrary to the applicable restrictions and limitations specified in, or effective pursuant to, the provisions of this subpart.

#### **§ 927.72 Duration of immunities.**

The benefits, privileges, and immunities conferred by virtue of this subpart shall cease upon termination hereof, except with respect to acts done under and during the existence of this subpart.

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#### **§ 927.73 Separability.**

If any provision of this subpart is declared invalid, or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remaining provisions and the applicability thereof to any other person, circumstance, or thing shall not be affected thereby.

#### **§ 927.74 Derogation.**

Nothing contained in this subpart is or shall be construed to be in derogation of, or in modification of, the rights of the Secretary or of the United States to exercise any powers granted by the act or otherwise, or, in accordance with such powers, to act in the premises whenever such action is deemed advisable.

#### **§ 927.75 Liability.**

No member or alternate for a member of the Fresh Pear Committee or the Processed Pear Committee, nor any employee or agent thereof, shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any party under this subpart or to any other person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate for a member, agent or employee, except for acts of dishonesty, willful misconduct, or gross negligence.

#### **§ 927.76 Agents.**

The Secretary may name, by designation in writing, any person, including any officer or employee of the Government or any bureau or division in the Department of Agriculture to act as his or her agent or representative in connection with any of the provisions of this subpart.

#### **§ 927.77 Effective time.**

The provisions of this subpart and of any amendment thereto shall become effective at such time as the Secretary may declare, and shall continue in force until terminated in one of the ways specified in § 927.78.

#### **§ 927.78 Termination.**

(a) The Secretary may at any time terminate this subpart.

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(b) The Secretary shall terminate or suspend the operation of any or all of the provisions of this subpart whenever he or she finds that such operation obstructs or does not tend to effectuate the declared policy of the act.

(c) The Secretary shall terminate the provisions of this subpart applicable to fresh pears for market or pears for processing at the end of any fiscal period whenever the Secretary finds, by referendum or otherwise, that such termination is favored by a majority of growers of fresh pears for market or pears for processing, respectively: *Provided*, That such majority has during such period produced more than 50 percent of the volume of fresh pears for market or pears for processing, respectively, in the production area. Such termination shall be effective only if announced on or before the last day of the then current fiscal period.

(d) The Secretary shall conduct a referendum within every six-year period beginning on May 21, 2005, to ascertain whether continuance of the provisions of this subpart applicable to fresh pears for market or pears for processing are favored by producers of pears for the fresh market and pears for processing, respectively. The Secretary may terminate the provisions of this subpart at the end of any fiscal period in which the Secretary has found that continuance of this subpart is not favored by producers who, during a representative period determined by the Secretary, have been engaged in the production of fresh pears for market or pears for processing in the production area: *Provided*, That termination of the order shall be effective only if announced on or before the last day of the then current fiscal period.

(e) The provisions of this part shall, in any event, terminate whenever the provisions of the act authorizing them cease to be in effect.

### § 927.79 Proceedings after termination.

(a) Upon the termination of this subpart, the members of the Fresh Pear Committee or the Processed Pear Committee then functioning shall continue as joint trustees for the purpose of liquidating all funds and property then in the possession or under the control of the Fresh Pear Committee or the Proc-

essed Pear Committee, including claims for any funds unpaid or property not delivered at the time of such termination.

(b) The joint trustees shall continue in such capacity until discharged by the Secretary; from time to time account for all receipts and disbursements; deliver all funds and property on hand, together with all books and records of the Fresh Pear Committee or the Processed Pear Committee and of the joint trustees, to such person as the Secretary shall direct; and, upon the request of the Secretary, execute such assignments or other instruments necessary and appropriate to vest in such person full title and right to all of the funds, property, or claims vested in the Fresh Pear Committee or the Processed Pear Committee or in said joint trustees.

(c) Any funds collected pursuant to this subpart and held by such joint trustees or such person over and above the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the joint trustees or such other person in the performance of their duties under this subpart, as soon as practicable after the termination hereof, shall be returned to the handlers pro rata in proportion to their contributions thereto.

(d) Any person to whom funds, property, or claims have been transferred or delivered by the Fresh Pear Committee or the Processed Pear Committee or its members, upon direction of the Secretary, as provided in this section, shall be subject to the same obligations and duties with respect to said funds, property, or claims as are imposed upon the members or upon said joint trustees.

### § 927.80 Amendments.

Amendments to this subpart may be proposed from time to time by the Fresh Pear Committee or the Processed Pear Committee or by the Secretary.

## Subpart—Rules and Regulations

SOURCE: 70 FR 59625, Oct. 13, 2005, unless otherwise noted.